



FREDERICK COUNTY BOARD OF APPEALS

June 22, 2022

CASE NUMBER: **B-22-08 (B275240) (VANMAR Associates Variance)**

REQUEST: Requesting approval of a variance to reduce the required 25 ft. front Building Restriction Line (BRL) by 17 feet in accordance with the Frederick County Code Sections 1-19-3.220 Variances and 1-19-6.100 Design Requirements. The purpose of the variance is to allow the construction of a single-family home. Approval of this application would create a front BRL of 8 Ft.

PROJECT INFORMATION:

ADDRESS/LOCATION: 10303 Cantor Ct., New Market, MD 21774
TAX MAP/PARCEL: Tax Map 69, Parcel 0102
ZONE: Planned Unit Development (PUD)
REGION: New Market
WATER/SEWER: NPS/NPS
COMP. PLAN/LAND USE: Low Density Residential

APPLICANT/REPRESENTATIVES:

APPLICANT: VANMAR Associates
OWNER: Jason Segura
ENGINEER: VANMAR Associates
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Mike Paone, Zoning Planner

RECOMMENDATION: Based on the findings and conclusions in the staff report, Staff has no objections to the approval of this application to allow a variance of 17'. The Applicant meets the standards and requirements contained in Sections 1-19-3.220 (Variance), and 1-19-6.100 (Design Standards), of the Frederick County Zoning Code. Approval of this application would create an 8' front BRL and allow for the construction of a single-family residence on this lot.

ATTACHMENTS:

Exhibit 1: Variance Site Plan
Exhibit 2: GIS Aerial of Site
Exhibit 3: Comprehensive Plan Designation
Exhibit 4: Environmental Features
Exhibit 5: Zoning Map

Background

The required setbacks for this Low Density Residential (R1) zoned property are front – 25', side – 8', rear – 25'.

The Applicant is requesting a 17' variance to a 25 ft. front building restriction line to construct a single-family residence in accordance with Sections 1-19-3.220 Variances, and 1-19-6.100 Design Standards, of the Frederick County Zoning Ordinance. If approved, the variance would create an 8' front building restriction line, rather than the required 25".
(Exhibit 1)

Sec. 1-19-3.220 General Criteria - Variance:

Under the provisions of Section 1-19-3.220(C) of the Frederick County Zoning Ordinance, the Board of Appeals shall not grant a variance unless and until a public hearing is held and all the following criteria are met:

- (A) The Board of Appeals may authorize a variance in height, lot area and yard regulations.
- (B) An application for a variance shall be filed with the Board of Appeals only after refusal of zoning approval or an adverse determination has been issued by the Zoning Administrator.

The Applicant states that the County Zoning staff directed him to file with the Board of Appeals.

- (C) The Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

The Applicant states that the hearing is scheduled for June 22, 2023.

- (1) First, the Board of Appeals shall find that special conditions and circumstances exist which are unique to the land or structure involved and which are not applicable to other lands or structures in the same district.

The Applicant states that Lot 388/10303 Cantor Court is at the terminus of Cantor Court, a hammerhead cul- de-sac. Lot 388 is only 8,780 square feet and is irregular in shape. With Lot 388 located directly at the end of the Cantor Court cul-de-sac, the front BRL would be 25 ft from the Cantor Court right-of-way. This creates an unusable lot for a single-family residence without modifying the 25 ft front BRL.

- (2) Upon making this finding the Board of Appeals shall also find that the following criteria are met
 - (a) That the special conditions and circumstances do not result from the actions of the applicant; and

The Applicant states that the shape of Lot 388 is not the result of any action of the Applicant. Lot 388 was created as an 8,780-sf residential lot within the PUD. Enforcing the required setbacks will not leave a buildable space on the lot for the construction of a single-family residential home.

- (b) The literal interpretation of the provisions of Chapter 1-19 of the Frederick County Code would result in unreasonable hardship and deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of Chapter 1-19; and

The Applicant states that the literal interpretation of the provisions of Chapter 1-19 would result in unreasonable hardship and deprive the Applicant of rights commonly enjoyed by other properties in the same district under terms of Chapter 1-19 since a buildable envelope for construction of a single-family residential house would not be possible.

- (c) That granting the variance will not confer on the applicant any special privilege that is denied by Chapter 1-19 of the Frederick County Code to other lands or structures in the same district; and

The Applicant states that granting the variance will not confer on the applicant any special privilege that is denied by Chapter 1-19 to other lands or structures in the same district.

- (d) That the granting of the variance will be in harmony with the general purpose and intent of Chapter 1-19 of the Frederick County Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The Applicant states that granting of the variance will be in harmony with the general purpose and intent of Chapter 1-19 and would not be injurious to the neighborhood or otherwise detrimental to the public welfare. Lot 388 is the only lot directly at the end of Cantor Court, there are no adjoining lots fronting this portion of Cantor Court.

- (D) In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with Chapter 1-19 of the Frederick County Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, is a violation of Chapter 1-19.

The Applicant states that he understands this requirement.

- (E) Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of Chapter 1-19 of the Frederick County Code in the zone involved, or any use expressly or by implication prohibited by the terms of Chapter 1-19 in said zone.

The Applicant states that the requested use is permitted, and not prohibited, under the terms of Chapter 1-19 of the Frederick County Code.

- (F) Except as specified in §1-19-4.220(C), the Board of Appeals shall not grant a variance to a nonconforming structure for the portion of structure determined by the Zoning Administrator to be nonconforming.

The Applicant states that they are not asking for a variance to a nonconforming structure.

- (G) A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

The Applicant states that he understands this requirement.

RECOMMENDATION

Based on the findings and conclusions in the staff report, Staff finds that the proposed 17' variance to the 25 ft. front building restriction line to construct a single-family residence, complies with Section 1-19-3.220 (Variance), Section 1-19-6.100 (Design Standards) of the Frederick County Zoning Code. If approved, the variance would create an 8" front building restriction line, rather than the required 25'.

1-19-3.220.G: A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1-time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

Exhibit 1: Variance Site Plan

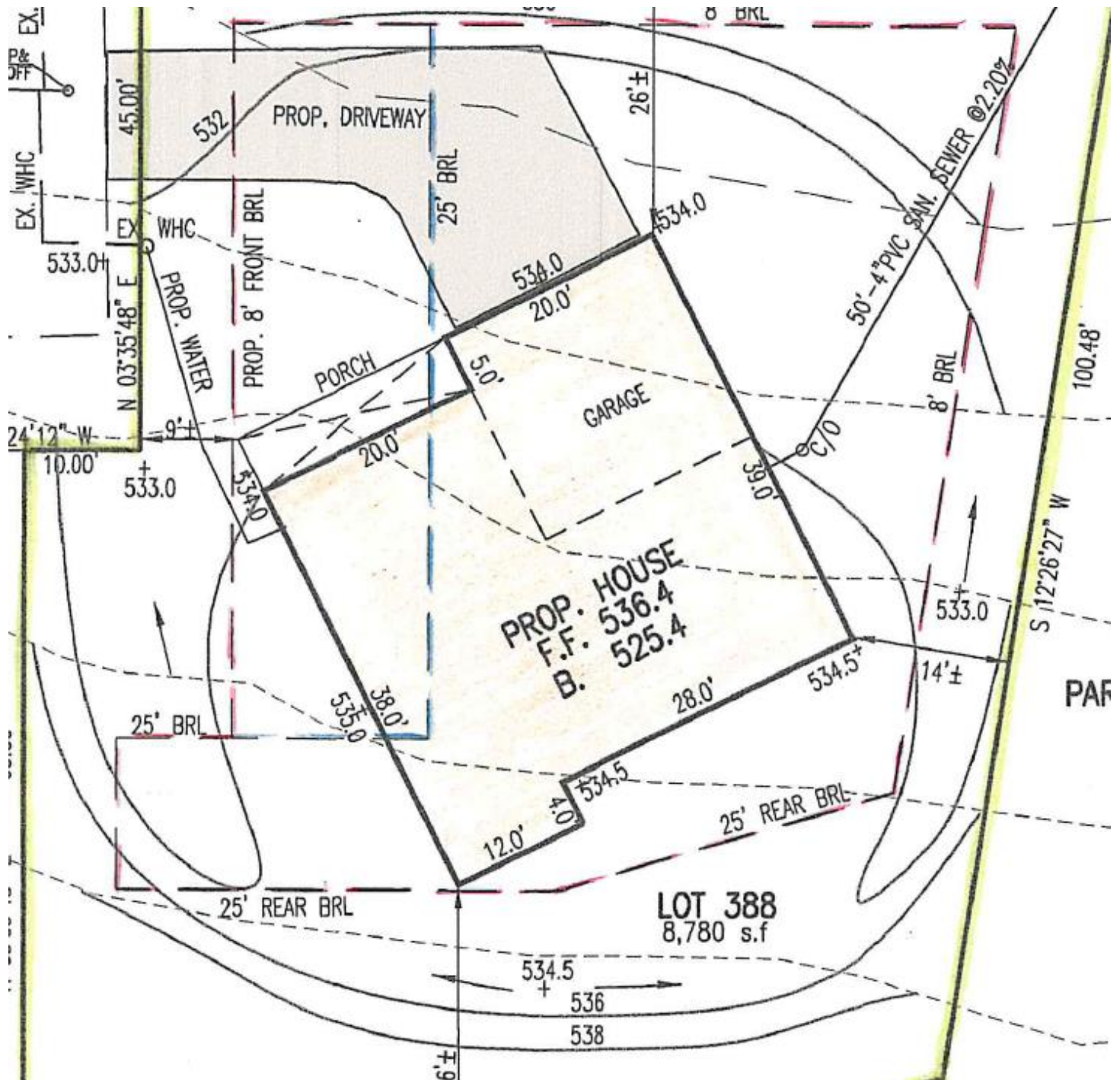


Exhibit 2: Aerial Map

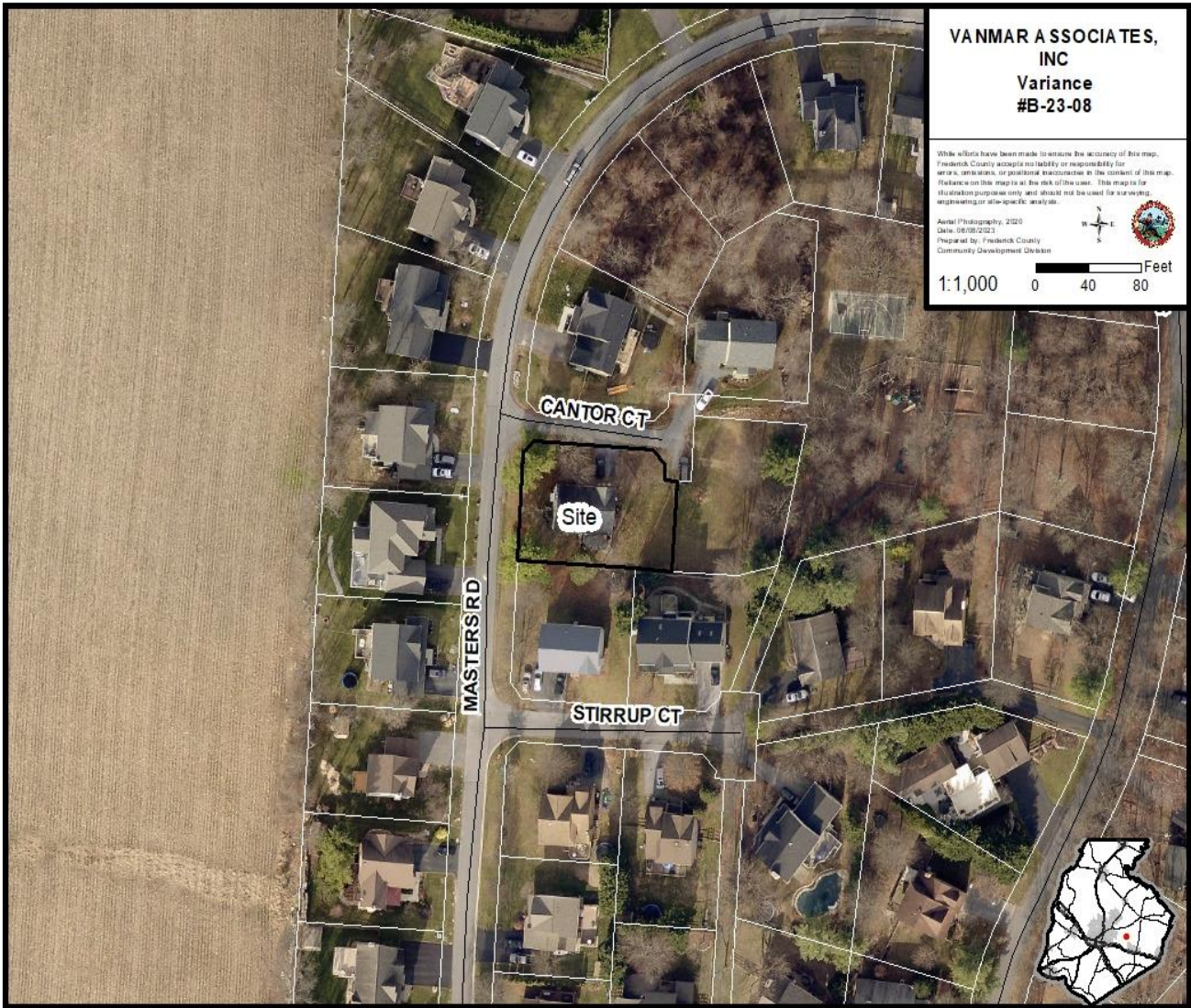


Exhibit 3: Comprehensive Plan Map

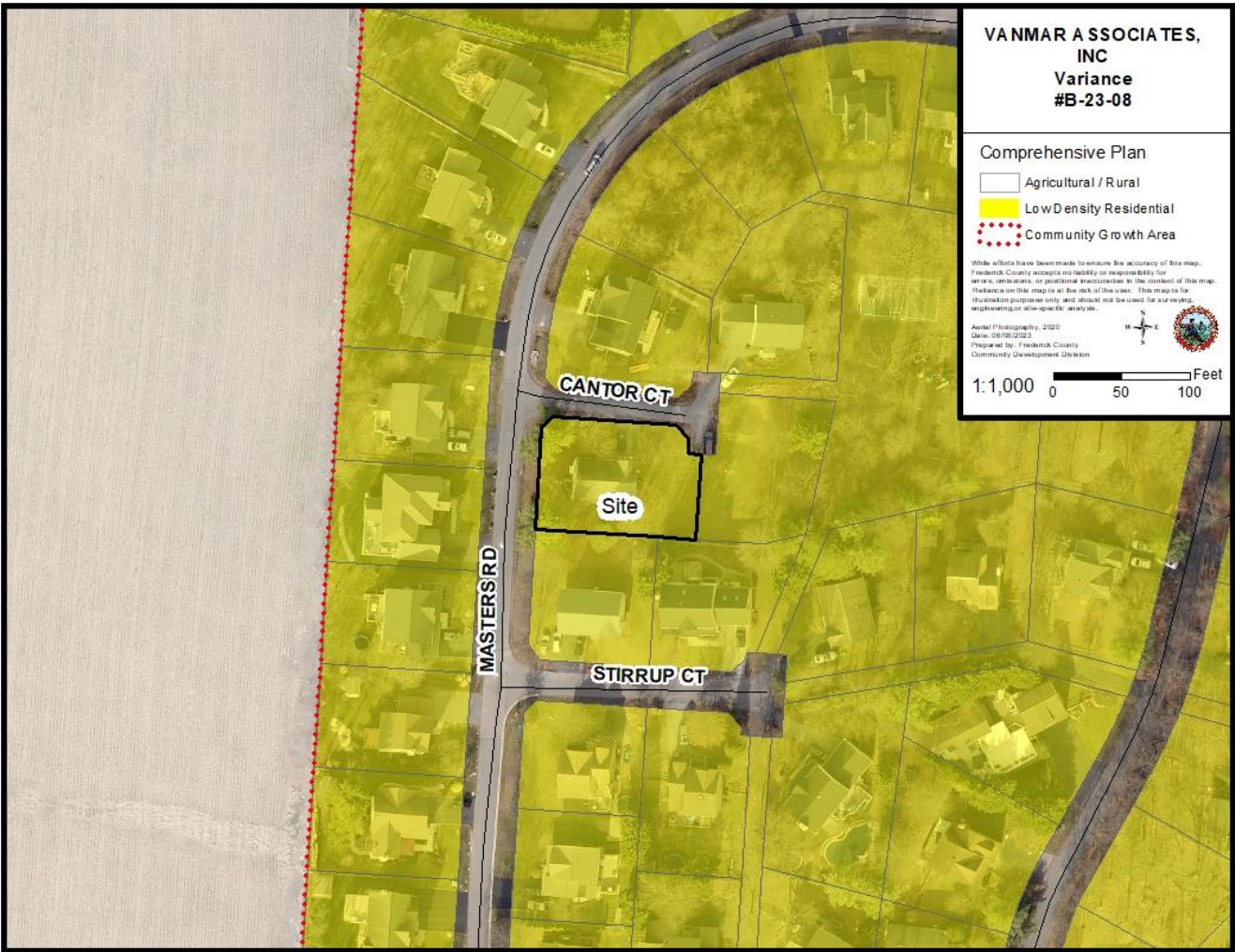


Exhibit 4: Environmental Features Map

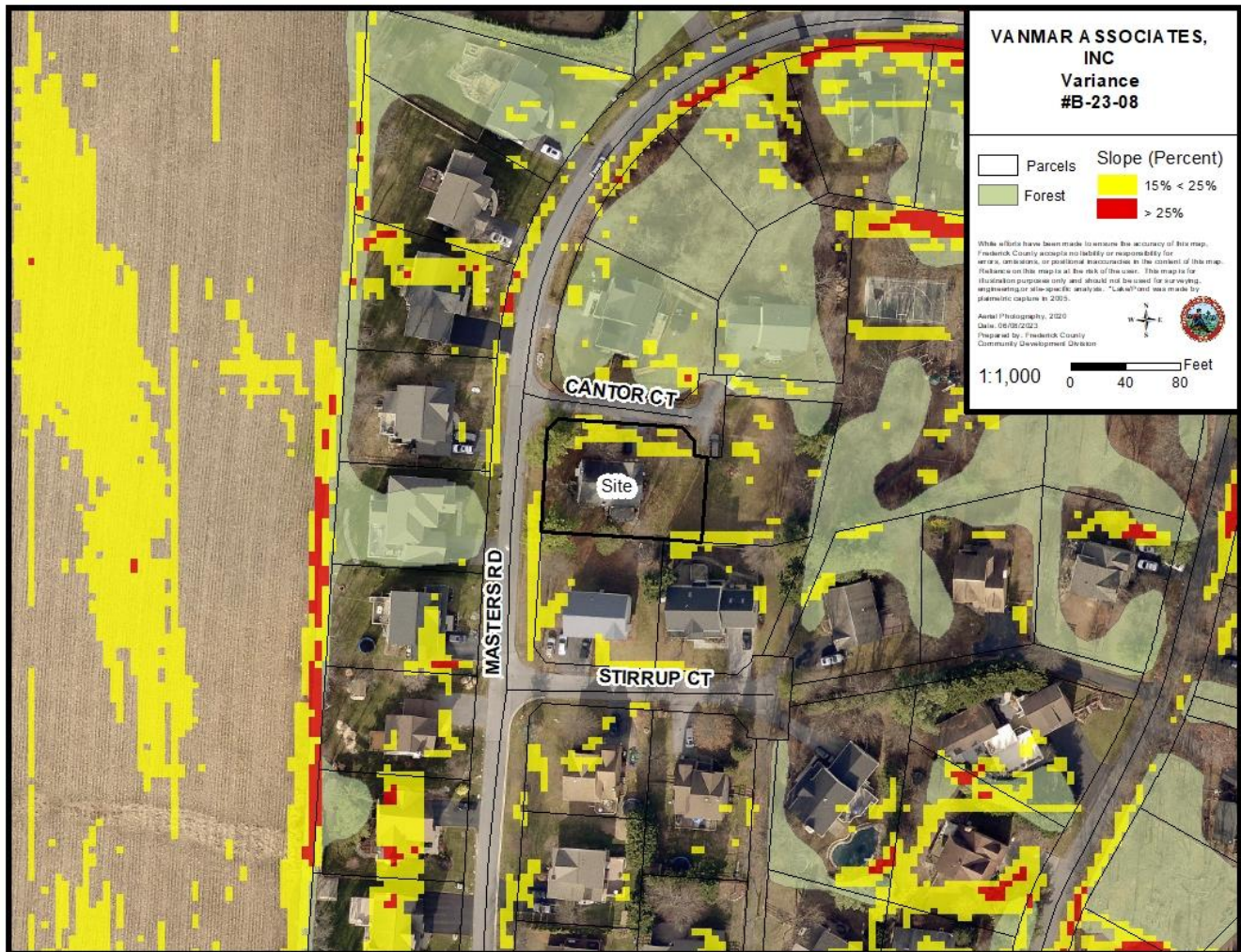


Exhibit 5: Zoning Map

